

1 THOMAS E. FRANKOVICH (State Bar No. 074414)
 2 THOMAS E. FRANKOVICH,
 3 *A Professional Law Corporation*
 4 2806 Van Ness Avenue
 5 San Francisco, CA 94109
 6 Telephone: 415/674-8600
 7 Facsimile: 415/674-9900

5 Attorneys for Plaintiffs
 6 LES JANKEY and DISABILITY RIGHTS
 7 ENFORCEMENT, EDUCATION, SERVICES:
 HELPING YOU HELP OTHERS

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 LES JANKEY, an individual; and) CASE NO. C 08-02466 PJH
 11 DISABILITY RIGHTS, ENFORCEMENT,)
 12 EDUCATION, SERVICES:HELPING YOU)
 13 HELP OTHERS, a California public benefit)
 14 corporation,)
 15 Plaintiffs,)
 16 v.)
 17 GEARY PARKWAY MOTEL; HENRY)
 18 KAO-CHUN YANG TRUSTEE of the)
 19 CHUNG LANG YANG IRREVOCABLE)
 20 TRUST; BALWANTSINH D. THAKOT,)
 21 and KIRANSHINH B. THAKOR,)
 22 individuals dba GEARY PARKWAY)
 23 MOTEL,)
 24 Defendants.)

**EX PARTE APPLICATION FOR
 ADDITIONAL TIME TO SERVE
 DEFENDANT HENRY KAO-CHUN YANG
 TRUSTEE of the CHUNG LANG YANG
 IRREVOCABLE TRUST AND
 CONTINUANCE OF RELATED DATES
 AND [PROPOSED] ORDER THEREON**

25 This action was filed on May 14, 2008. Pursuant to General Order 56 and Civil Local
 26 Rule 7-11, plaintiffs were to have served defendants on or before July 14, 2008.

27 The defendants to this action are HENRY KAO-CHUN YANG TRUSTEE of the
 28 CHUNG LANG YANG IRREVOCABLE TRUST; BALWANTSINH D. THAKOT, and
 29 KIRANSHINH B. THAKOR, individuals dba GEARY PARKWAY MOTEL. Defendants
 30 BALWANTSINH D. THAKOT, and KIRANSHINH B. THAKOR, individuals dba GEARY
 31 PARKWAY MOTEL, accepted service by signing an Acknowledgment of Receipt on July 15,
 32 2008, which plaintiffs' counsel filed on July 15, 2008. Defendants BALWANTSINH D.

1 THAKOT, and KIRANSHINH B. THAKOR have not answered as of the filing of this
2 application.

3 Despite diligent efforts, plaintiffs have been unsuccessful in their attempts to serve
4 defendant HENRY KAO-CHUN YANG TRUSTEE of the CHUNG LANG YANG
5 IRREVOCABLE TRUST with the summons and complaint herein.

6 Shortly after the filing of the complaint, plaintiffs directed their process server to serve
7 defendant at the service address found on the Grant Deed of the property subject to this lawsuit.
8 After several unsuccessful attempts, plaintiffs' process server learned from a neighboring tenant
9 that defendant did not live at the address, but rented it out.

10 Thereafter, plaintiffs ran a second online name search and found another address.
11 However, plaintiffs' process server found that address also to be owned by the defendant, but
12 that he also rents it out. Attached as Exhibit A is the Affidavit of Reasonable Diligence from our
13 process servers.

14 Plaintiffs have obtained a third address and have directed their process server to serve
15 defendant at this new address.

16 In light of the above described service difficulties, plaintiffs would respectfully request
17 that the last day for plaintiff to complete service on defendant be continued for a period of 60-
18 days to allow plaintiffs time to either succeed at or exhaust their service efforts, and presuming
19 that service is accomplished, to allow defendants time to file a responsive pleading.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 Plaintiffs would also request that the last day for the parties and counsel to hold a joint
2 inspection of the premises be continued from August 22, 2008, to October 31, 2008, in order to
3 give all parties sufficient time to be served, appear, and meaningfully participate in the joint
4 inspection.

5 Respectfully submitted,

6

7 Dated: July 24, 2008

THOMAS E. FRANKOVICH
A PROFESSIONAL LAW CORPORATION

9

10 By: _____ /s/
11 Thomas E. Frankovich
12 Attorneys for Plaintiffs LES JANKEY and
13 DISABILITY RIGHTS ENFORCEMENT,
14 EDUCATION SERVICES

15

16 **ORDER**

17 IT IS SO ORDERED that plaintiffs have an additional sixty (60) days from the date of
18 this Order to serve defendant HENRY KAO-CHUN YANG TRUSTEE of the CHUNG LANG
19 YANG IRREVOCABLE TRUST. IT IS FURTHER ORDERED that the last day for the parties
20 to hold the joint inspection of the premises is continued to _____.

21

22

23 Dated: _____, 2008

24 _____
25 Hon. Phyllis J. Hamilton
26 UNITED STATES DISTRICT JUDGE

CERTIFICATE OR PROOF OF SERVICE

1 State of California)
2 County of San Francisco) ss
3)

4 I, the undersigned, say: I am and was at all times herein mentioned, over the age of
5 eighteen (18) years and not a party to the within action or proceeding; that my business address
6 is 2806 Van Ness Avenue, San Francisco, CA 94109-5460; that on the below date, following
7 normal business practice, I served the foregoing document, described as:

8

**EX PARTE APPLICATION FOR ADDITIONAL TIME TO SERVE DEFENDANT
HENRY KAO-CHUN YANG TRUSTEE of the CHUNG LANG YANG IRREVOCABLE
TRUST AND CONTINUANCE OF RELATED DATES AND [PROPOSED] ORDER
THEREON**

9 on the interested parties in this action, conveyed as follows:

10 by depositing true copies thereof, enclosed in a sealed envelope, with postage thereon
11 fully prepaid:
12 in first class U.S. Mail
13 in ___ priority or ___ standard overnight mail via Federal Express.

14 I am readily familiar with this office's practice for collection and processing of
15 correspondence for mailing with the United States Postal Service or Federal Express.
16 In the ordinary course of business, correspondence, including said envelope, will be
17 deposited with the United States Postal Service or Federal Express in San Francisco.

18 by transmitting via facsimile to the fax number(s) set forth below.
19 by causing personal delivery by Western Messenger Service.
20 by personal hand-delivery.

21 addressed to:

22 Michael T. Heath
23 Law Office of Michael Heath
24 3251 Steiner Street
25 San Francisco, CA 94123

26 I declare under penalty of perjury under the laws of the State of California that I am
27 employed in the office of a member of the bar of this court at whose direction the service was
28 made, and that the foregoing is true and correct. Executed on July 24, 2008, at San Francisco,
California.

29 _____/s/_____
30 Christine J. Cunanan
31 (Original signed)

Exhibit A

Attorney or Party without Attorney: THOMAS E. FRANKOVICH, Bar #74414 THE FRANKOVICH GROUP 2806 VAN NESS AVE. SAN FRANCISCO, CA 94109		For Court Use Only	
Telephone No: 415-674-8600	FAX: No: 415-674-9900	Ref. No or File No.:	GEARY PARKWAY MOTEL
Insert name of Court, and Judicial District and Branch Court: United States District Court Northern District Of California			
Plaintiff: LES JANKEY, et al. Defendant: GEARY PARKWAY MOTEL, et al.			
AFFIDAVIT OF REASONABLE DILIGENCE		Hearing Date:	Time:
		Dept/Div:	Case Number: CV 08 2466 PJH

1. I, TODD BRENNECK, and any employee or independent contractors retained by FIRST LEGAL SUPPORT SERVICES are and were on the dates mentioned herein over the age of eighteen years and not a party to this action. Personal service was attempted on Defendant HENERY KAO-CHUN YANG TRUSTEE of the CHUNG LANG YANG IRREVOCABLE TRUST as follows:

2. **Documents:** Summons In A Civil Action; Complaint For Injunctive Relief And Damages; Civil Cover Sheet; Welcome To The U.S. District Court; Notice Of Availability Of Magistrate Judge To Exercise Jurisdiction; Scheduling Order For Cases Asserting Denial Or Right Of Access Under Americans With Disabilities Act Title Iii; Ecf Registration Information Handout; Letter Dated June 9, 2008..

Day	Date	Time	Location	Results
Sun	06/15/08	7:55pm	Home	NO ANSWER. NO LIGHTS. LEXUS SUV IN THE DRIVE WAY. Attempt made by: TODD BRENNECK. Attempt at: 340 LOYOLA DRIVE MILLBRAE CA 94030.
Mon	06/16/08	8:07am	Home	NO ANSWER. NO ACTIVITY. LEXUS STILL IN DRIVE WAY. Attempt made by: TODD BRENNECK. Attempt at: 340 LOYOLA DRIVE MILLBRAE CA 94030.
Tue	06/17/08	1:45pm	Home	NO ANSWER. NO ACTIVITY. LEXUS STILL IN DRIVE WAY. THERE ARE TWO NEWSPAPERS IN THE DRIVE WAY AS WELL. Attempt made by: TODD BRENNECK. Attempt at: 340 LOYOLA DRIVE MILLBRAE CA 94030.
Sat	06/21/08	7:00am	Home	NO ANSWER. NO ACTIVITY. LEXUS STILL IN DRIVE WAY. Attempt made by: TODD BRENNECK. Attempt at: 340 LOYOLA DRIVE MILLBRAE CA 94030.
Mon	06/23/08	6:58pm	Home	NO ANSWER. NO CHANGE. Attempt made by: TODD BRENNECK. Attempt at: 320 VALLEJO DRIVE APARTMENT 29 MILLBRAE CA 94030.
Thu	06/26/08	9:15pm	Home	NO ANSWER. NO LIGHTS. LEXUS SUV STILL IN DRIVE WAY. THERE IS A CARD FROM A CLEANING SERVICE STUCK IN THE DOOR WHICH HAS BEEN HERE SINCE THE ATTEMPT ON JUNE 17TH. Attempt made by: TODD BRENNECK. Attempt at: 340 LOYOLA DRIVE MILLBRAE CA 94030.

<p>Attorney or Party without Attorney: THOMAS E. FRANKOVICH, Bar #74414 THE FRANKOVICH GROUP 2806 VAN NESS AVE. SAN FRANCISCO, CA 94109</p>					For Court Use Only
Telephone No: 415-674-8600		FAX: No: 415-674-9900		Ref. No or File No.: GEARY PARKWAY MOTEL	
Insert name of Court, and Judicial District and Branch Court: United States District Court Northern District Of California					
Plaintiff: LES JANKEY, et al. Defendant: GEARY PARKWAY MOTEL, et al.					
AFFIDAVIT OF REASONABLE DILIGENCE		Hearing Date:	Time:	Dept/Div:	Case Number: CV 08 2466 PJH

SUMMONS IN A CIVIL

Day	Date	Time	Location	Results
Sun	06/29/08	7:23pm	Home	NO ANSWER. NO LIGHTS. LEXUS SUV STILL IN DRIVE WAY. CARD STILL IN THE DOOR. Attempt made by: TODD BRENNECK. Attempt at: 320 VALLEJO DRIVE APARTMENT 29 MILLBRAE CA 94030.
Tue	07/01/08	5:55pm	Home	THIS IS A LARGE APARTMENT COMPLEX. THE SUBJECT IS NOT LISTED. NEED AN APARTMENT NUMBER. Attempt made by: TODD BRENNECK. Attempt at: 320 VALLEJO DRIVE MILLBRAE CA 94030.
Fri	07/11/08	6:58pm	Home	NO ANSWER AT THE DOOR. I WAS ABLE TO GAIN ACCESS. NO ACTIVITY. UNABLE TO TELL IF THERE ARE ANY CARS THERE. Attempt made by: TODD BRENNECK. Attempt at: 320 VALLEJO DRIVE APARTMENT 29 MILLBRAE CA 94030.
Sun	07/20/08	8:20pm	Home	NO ANSWER. NO ACTIVITY. PER THE NEIGHBOR TO THE RIGHT, THE SUBJECT OWNS THE SUBJECT PROPERTY AND RENTS IT OUT. Attempt made by: TODD BRENNECK. Attempt at: 340 LOYOLA DRIVE MILLBRAE CA 94030.
Sun	07/20/08	8:30pm	Home	PER MR. SEUNG, THE SUBJECT OWNS THIS UNIT BUT RENTS TO HIM. Attempt made by: TODD BRENNECK. Attempt at: 320 VALLEJO DRIVE APARTMENT 29 MILLBRAE CA 94030.

3. *Person Executing*

- a. TODD BRENNECK
- b. FIRST LEGAL SUPPORT SERVICES
1511 BEVERLY BOULEVARD
LOS ANGELES, CA 90026
c. (213) 250-1111, FAX (213) 250-1197

Recoverable Costs Per CCP 1033.5(a)(4)(B)

d. *The Fee for service was:*

- e. I am: (3) registered California process server
 - (i) Independent Contractor
 - (ii) Registration No.: 2008-000865-01
 - (iii) County: San Mateo

4. *I declare under penalty of perjury under the laws of the State of California and under the laws of the United States Of America that the foregoing is true and correct.*